

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

| | | |
|-------------------|---|------------------------|
| CURTIS C. OLIVER, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No. 4:03CV722 RWS |
| |) | |
| LARRY ROWLEY, |) | |
| |) | |
| Respondent. |) | |

MEMORANDUM AND ORDER

This matter is before me on the petition for writ of habeas corpus filed by Petitioner Curtis C. Oliver. I referred this matter to United States Magistrate Judge David D. Noce for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On November 17, 2005, Judge Noce filed his recommendation that Oliver's habeas petition should be denied.

Objections to Judge Noce's Report and Recommendation were due to be filed by November 28, 2005. As of the date of this order, Oliver has not filed any objection to the Report and Recommendation. After careful consideration, I will adopt and sustain the thorough reasoning of Judge Noce and I will deny Stevenson's habeas petition for the reasons stated in the Report and Recommendation dated November 17, 2005.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a Court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir.


1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994). Because Petitioner has not made such a showing in this case, I will not issue a certificate of appealability. Accordingly,

IT IS HEREBY ORDERED that Judge Noce's Report and Recommendation filed on November 17, 2005 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner Curtis C. Oliver's Petition for Writ of Habeas Corpus is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate Judgment in accordance with this Memorandum and Order is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 10th day of March, 2006.